

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard M. Klein on 03/16/10.

The application has been amended as follows:

Claims 1, 28, 29, 36 and 38 have been cancelled.

All claims that depend in claim 1 have been amended to depend in claim 37.

Claim 37 has been amended to read:

--"A method for producing a soft capsule comprising:

melting a low melting point additive comprising a chocolate base comprising cacao butter to produce a fill material, wherein the fill material has a hardness of no greater than 47 kgs;

producing a shell;

filling the shell with the fill material; and

drying the filled material in a drying chamber at a temperature of 30°C to 40°C for 5 hours to 64 hours so that a major amount of V-type cacao butter crystals and a minor amount of VI-type cacao butter crystals are formed such that the shell and fill material are homogenized with each other to produce the soft capsule".--

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Claims 4-8, 10, 12-27 and 30-35, line 1, the phrase “A soft capsule” has been amended to “A method for producing a soft capsule”.

Claims 8, 33 and 34, the phrase “MACROGOL® (polyethylene glycol)” has been amended to “polyethylene glycol”.

Claim 24, line 2, after the phrase “the fill material”, the word “further” has been inserted.

Claim 27, line 2, after the phrase “the fill material”, the word “further” has been inserted.

Claim 30, line 2, the word “aging” has been amended to “drying”.

Claim 35, line 2, the phrase “soft capsule has been subjected to aging” has been amended to “drying is conducted”.

Claim 34, line 2, the phrase “claims 1, 2, 4, 5, or 6” has been amended to “claims 3, 4, 5, or 6”.

The following is an examiner’s statement of reasons for allowance:

The closest prior arts, Ebert and Lech, do not teach the claimed method wherein the capsule filled with low melting point cacao butter is subjected to drying at a temperature of 30-40°C for 5 hours to 64°C hours. This drying condition is necessary to control the crystal type of the cacao butter, therefore, homogenize the capsule shell and the fill material to obtain a soft capsule that has an improved taste and immediately soluble upon administering.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 4-8, 10, 12-27, 30-35 and 37 are allowed.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. TRAN whose telephone number is (571) 272-0606. The examiner can normally be reached on M-F 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Wax can be reached on (571) 272-0623. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/S. TRAN/

Primary Examiner, Art Unit 1615